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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,125	08/27/2003	Lawrence J. Murphy	02115	5521
<div>7590 06/25/2007</div> <div>Martha Ann Finnegan, Esq. Cabot Corporation 157 Concord Road Billerica, MA 01821-7001</div> <div>EXAMINER ALEXANDER, LYLE</div> <div>ART UNIT 1743</div> <div>PAPER NUMBER</div> <div>MAIL DATE 06/25/2007</div> <div>DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/650,125	Applicant(s) MURPHY ET AL.	
	Examiner Lyle A. Alexander	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 17-65 and 67-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/19/05;7/21/05;3/7/05;12/2/04 and 10/27/03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-16 and 66 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification describes the instant invention as a method using absorptometry curves. It is not clear what these curves are and how they are calculated. A search of the patent data base was made of the terms absorptometry and curve(s) in the same sentence. The only hit was the PGPUB of the instant application. A further search was made of absorptomery and the only references discovered were directed to determination of bone densities. The absorptometry methods described in the specification are directed to measuring the maximum torque of solids while mixing. Clarification could be achieved if Applicants' could supply corroborating evidence the taught and claimed "absorptometry curves" are well known in the art.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 and 66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are directed to methods obtaining "absorptometry curves". It is not clear how these curves are created.

Claim 1 is not clear what steps are intended to accomplish "c) maintaining the value from the first absorptometry curve ...". How is the value maintained ?

Claim 6 is not clear how the various extraction values are combined (e.g. the claimed "combinations thereof").

Claim 9 is not clear what method steps are contemplated by "... maintaining at least one morphological value...".

Claim 10 is not clear what method steps are contemplated by "... maintaining at least one chemical value...".

Claim 13 is not clear what method steps are contemplated by "... a quality control method ...". There are many different quality control methods.

Claim 14 is not clear what method steps are contemplated by "... a routine basis to insure quality control...". It is not clear how any method could insure quality. Rather, it appear the claimed methods can monitor some parameters associated with quality.

Claims 15-16 are not clear what method steps are contemplated by "... a quality assurance method ...". It is not clear how any method could insure quality. Rather, it appear the claimed methods can monitor some parameters associated with quality.

Claim 66 is not clear what method steps are taken to obtain the "... at least one value..." (e.g. how are the values from each curve combined to acquire the one value).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 and 66 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Han et al. (USP 4,241,602), Tadros (USP 5,078,007) or Tjahjadi et al (USP 5,974,866).

In light of the above 35 USC 112 first and second paragraph issues, the invention is best understood as a method of quality assurance by measuring the viscosity of the product. All of the cited prior art reference measure the quality of a polymer product using a rheometer.

Claims 1-16 and 66 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sljaka et al. (USP 3,229,507).

In light of the above 35 USC 112 first and second paragraph issues, the invention is best understood as a method of quality assurance by measuring the viscosity of the product.

Sljaka et al. is the same reference described as "Opie et al." in the 3/7/05 IDS in the International search report dated 10/15/04. Sljaka et al. teach in columns 2-4

obtaining information about carbon black by mixing the carbon black with a liquid and subsequent measurement of the mixtures torque.

The Examiner acknowledges receipt of the lengthy information disclosure statements filed 12/19/05;7/21/05;3/7/05;12/2/04 and 10/27/03. There is no requirement that applicants explain the materiality of English language references, however the cloaking of a clearly relevant reference in a long list of references may not comply with applicants' duty to disclose, see Penn Yan Boats, Inc. v. Sea Lark Boats, Inc., 359 F. Supp. 948, aff'd 479 F. 2d. 1338. There is no duty for the Examiner to consider these references to a greater extent than those ordinarily looked at during a regular search by the Examiner. Accordingly, the Examiner has considered these references in the same manner as references encountered during a normal search of Office search files.

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on 4/24/07 is acknowledged. The traversal is on the ground(s) that the subject matter of all three groups overlaps and there would be no burden of additional search. This is not found persuasive because the criteria for restriction is if there is more than one independent and distinct invention. The Office maintains the 4/4/07 restriction requirement demonstrated each of the three groups are independent and distinct inventions. The Office maintains the restriction requirements are proper.

The requirement is still deemed proper and is therefore made FINAL.

This application contains claims 17-65 and 67-69 drawn to an invention nonelected with traverse in the reply filed on 4/24/07. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lyle A Alexander
Primary Examiner
Art Unit 1743

